

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Melanyn Rivas	Team: Squad #9	CCRB Case #: 202101974	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/27/2021 12:30 PM, Thursday, 05/20/2021 9:40 AM	Location of Incident: § 87(2)(b) At the CCRB	Precinct: 66	18 Mo. SOL 9/27/2022	EO SOL 9/27/2022	
Date/Time CV Reported Sat, 03/27/2021 1:26 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 03/27/2021 1:26 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Halima Greene	10638	964535	066 PCT
2. PO Kendrew Kwan	12287	965775	066 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Kendrew Kwan	Force: Police Officer Kendrew Kwan used physical force against § 87(2)(b)	§ 87(2)(b)
B. PO Halima Greene	Abuse: Police Officer Halima Greene refused to provide her name to § 87(2)(b)	§ 87(2)(b)
C. PO Halima Greene	Abuse: Police Officer Halima Greene refused to provide her shield number to § 87(2)(b)	§ 87(2)(b)
D. PO Kendrew Kwan	Untruthful Stmt.: On May 20, 2021, Police Officer Kendrew Kwan provided a misleading official statement to the CCRB.	§ 87(2)(b)

Case Summary

On March 27th, 2021, § 87(2)(b) filed this complaint via the CCRB's on-line website.

On March 27th, 2021, at approximately 12:30 p.m., Police Officer Kendrew Kwan, and Police Officer Halima Greene, both of the 66th Precinct, arrived at § 87(2)(b)'s apartment, § 87(2)(b) in Brooklyn. PO Kwan and PO Greene responded to the location after receiving a 911 call from § 87(2)(b)'s brother, § 87(2)(b) who requested a police escort to remove his belongings from § 87(2)(b)'s apartment.

After § 87(2)(b) allowed § 87(2)(b) PO Kwan, and PO Greene to enter his apartment, § 87(2)(b) § 87(2)(b)'s mother, walked upstairs to the apartment. Upon seeing § 87(2)(b) § 87(2)(b) became apprehensive and began to yell at her and PO Kwan pushed § 87(2)(b) allegedly nine to ten feet down his apartment's hallway (**Allegation A: Force, § 87(2)(g)**).

§ 87(2)(b) then asked PO Kwan and PO Greene for their name and shield numbers. PO Kwan provided his last name and his shield number. However, PO Greene allegedly did not provide her name or shield number (**Allegation B: Abuse of Authority, § 87(2)(g)** (**Allegation C: Abuse of Authority, § 87(2)(g)**)). PO Kwan and PO Greene then waited for § 87(2)(b) to finish gathering his belongings and proceeded to leave § 87(2)(b)'s apartment.

A preponderance of the evidence suggests that PO Kwan provided a misleading official statement during his CCRB interview on May 20, 2021 (**Allegation D: Untruthful Statement, § 87(2)(g)**).

§ 87(2)(b) was not arrested and did not receive a summons in relation to this incident.

On April 23, 2021, the investigation obtained two videos captured by the body-worn cameras of PO Kwan and PO Greene (**Board Review, 01**).

Findings and Recommendations

Allegation (A) Force: Police Officer Kendrew Kwan used physical force against § 87(2)(b)

During his CCRB interview, § 87(2)(b) stated that before § 87(2)(b) approached his apartment, PO Greene asked him whether she could go to the apartment, and he said no (**Board Review, 03**). When he saw that § 87(2)(b) walked upstairs to his apartment, he asked PO Kwan and PO Greene who allowed § 87(2)(b) upstairs after he specifically said for her not to be let into his apartment. It was at that point that PO Kwan began pushing § 87(2)(b) at his chest down his hallway. § 87(2)(b) walked and stumbled backward and held himself up by putting his hands on each side of the hallway wall. § 87(2)(b) told PO Kwan to stop pushing him, but PO Kwan continued to push § 87(2)(b) PO Kwan pushed him for approximately nine to ten feet.

In his CCRB interview, PO Kwan explained that § 87(2)(b) attempted to come into § 87(2)(b)'s apartment, and it was at that point when § 87(2)(b) became irate and walked toward § 87(2)(b) in an aggressive manner (**Board Review, 04**). § 87(2)(b) had his hand up pointing at § 87(2)(b) and was screaming at § 87(2)(b) telling her that she was not welcomed in the apartment. PO Kwan mentioned that § 87(2)(b) bumped into him as he tried to walk toward § 87(2)(b) PO Kwan then stepped in front of § 87(2)(b) to prevent him from getting to § 87(2)(b) PO Kwan told § 87(2)(b) that there was no need for aggression and told him to walk to the back of the apartment, but PO Kwan did not take any physical action against § 87(2)(b) During his interview, PO Kwan was shown his body-worn camera footage from minute 00:13 to 00:26 (**Board Review, 02**). PO Kwan was asked to direct his attention to the bottom left-hand corner of the screen. PO Kwan was then asked if he had

seen an interaction, and whether the footage refreshed his recollection. PO Kwan replied “yes.” PO Kwan stated, “I happened to touch him, I didn’t push him though.” When asked whether it had been an incidental contact, PO Kwan said “yes.” PO Kwan was then asked again if he pushed § 87(2)(b) and in response, PO Kwan said, “no.”

According to witnessing officer PO Greene, after § 87(2)(b) lunged at § 87(2)(b) returned downstairs (**Board Review, 05**). As § 87(2)(b) stood in the hallway of his apartment waiting for § 87(2)(b) to gather his belongings, PO Kwan told § 87(2)(b) “Excuse me, excuse me,” as PO Kwan wanted to walk past him. § 87(2)(b) did not move, and it was then that PO Greene saw PO Kwan push § 87(2)(b).

As PO Greene stands in § 87(2)(b)’s apartment entryway, her BWC captures PO Kwan standing in the hallway in front of § 87(2)(b) (**Board Review, 04**). At five seconds, PO Greene’s BWC captures PO Kwan contacting § 87(2)(b)’s abdomen. At the time, of the push, § 87(2)(b) is not inside the apartment nor attempting to enter the apartment. Furthermore, § 87(2)(b) is not seen walking toward anyone nor pointing up at any point.

At the 00:24 minute-mark in PO Kwan’s body-worn camera footage (**Board Review, 02**), PO Kwan pushes § 87(2)(b) once by extending his hand forward and making contact with § 87(2)(b)’s abdomen. § 87(2)(b) then puts both of his hands up and moves backward away from PO Kwan.

Although PO Kwan denied pushing § 87(2)(b) PO Greene’s statement and BWC footage corroborate § 87(2)(b)’s statement that PO Kwan pushed him.

NYPD Patrol Guide Procedure 221-01 states, “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy” (**Board Review, 06**).

PO Kwan testified that at the time of the push PO Kwan was preventing § 87(2)(b) from walking toward § 87(2)(b). PO Greene’s statement and BWC confirm that at the time of the push § 87(2)(b) was not inside the apartment nor attempting to enter § 87(2)(b)’s apartment. Rather, PO Kwan was standing in front of § 87(2)(b) in the hallway of the apartment attempting to walk past him. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Halima Greene refused to provide her name to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Halima Greene refused to provide her shield number to § 87(2)(b)

It is undisputed that PO Greene responded to § 87(2)(b)’s apartment on March 27, 2021.

§ 87(2)(b) stated that after he asked PO Kwan and PO Greene to turn their BWCs on and they complied, he asked for their names and shield numbers (**Board Review, 03**). PO Kwan provided the information to him. However, PO Greene ignored him.

During PO Greene’s CCRB interview, PO Greene stated that § 87(2)(b) never asked for her name or shield number (**Board Review, 05**).

During his CCRB interview, PO Kwan stated that § 87(2)(b) did not speak to PO Greene at any point (**Board Review, 04**).

At minute 2:42, PO Kwan’s body-worn camera footage depicts the moments when § 87(2)(b) asks PO Kwan for his shield number, PO Kwan goes on to provide his last name and shield number (**Board Review, 02**). § 87(2)(b) does not ask PO Greene for her

shield number at that point nor at any other time during the incident.

§ 87(2)(g)

Allegation (D) Untruthful Statement: On May 20, 2021, Police Officer Kendrew Kwan provided a misleading official statement to the CCRB.

It is undisputed that PO Kwan used physical force against § 87(2)(b) inside of his apartment on March 27, 2021.

From 00:13 to 00:26, PO Kwan's body-worn camera footage depicts an interaction between PO Kwan and § 87(2)(b) (**Board Review, 02**). The video shows PO Kwan pushing § 87(2)(b) by extending his hand forward against § 87(2)(b)'s abdomen.

In his initial account during his CCRB interview, PO Kwan stated that he did not make any physical contact with § 87(2)(b) (**Board Review, 04**). After being shown a clip of his BWC, between 00:13 to 00:26 seconds, PO Kwan maintained that he did not push § 87(2)(b) (**Board Review, 04**). PO Kwan was shown the same clip again and was asked to direct his attention to the left side of the screen where the push could be seen. PO Kwan stated that this refreshed his recollection and that, "I happened to touch him. I didn't push him though." When asked whether it had been incidental contact, PO Kwan said "Yes."

PO Kwan was shown another clip from his BWC at the 2:55 minute mark which depicts § 87(2)(b) asking PO Kwan, "Was I a little hard to push?" In response, PO Kwan says, "No, you weren't." When PO Kwan was asked what he and § 87(2)(b) were speaking about, he stated that he had asked § 87(2)(b) to go to the back of the apartment at which point § 87(2)(b) alleged that PO Kwan pushed him. PO Kwan reiterated at this point of the interview that he did not push § 87(2)(b) (**Board Review, 02**). (**Board Review, 04**).

NYPD Administrative Guide Procedure 304-10, states that "Intentionally omitting a material fact or facts," and or, "Altering/changing a member's prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described, will generally be considered a misleading statement" (**Board Review, 07**).

PO Kwan attempted to misdirect the investigation by omitting material facts and altering his statement. PO Kwan omitted pushing § 87(2)(b) even after being shown BWC proving the contrary. PO Kwan then altered his statement after being shown BWC of him pushing § 87(2)(b) twice. While he initially denied making any physical contact with § 87(2)(b) even after watching BWC footage, he eventually admitted doing so but stating that the contact was incidental and not a push. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review, 08**).
- PO Greene has been a member of service for three years and this is the first CCRB complaint to which she has been a subject.
- PO Kwan has been a member of service for three years and has been a subject in one CCRB complaint and two allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 10, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**Board Review, 09**).

- § 87(2)(b)

Squad: 9

Investigator:	<u>Melanyn Rivas</u>	<u>Investigator Melanyn Rivas</u>	<u>06/01/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Wassim Abedrabbo</u>	<u>SI Wassim Abedrabbo</u>	<u>11/01/2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date